

Calendar No. 456

114TH CONGRESS
2^D SESSION

S. 1073

[Report No. 114–249]

To amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 23, 2015

Mr. CARPER (for himself, Mr. JOHNSON, Mr. WARNER, Mr. COATS, Mr. BOOKER, Mrs. McCASKILL, Mr. TILLIS, and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

MAY 9, 2016

Reported by Mr. JOHNSON, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stopping Improper
 5 Payments to Deceased People Act”.

6 **SEC. 2. DISTRIBUTION OF DEATH INFORMATION FUR-**
 7 **NISHED TO OR MAINTAINED BY THE SOCIAL**
 8 **SECURITY ADMINISTRATION.**

9 (a) IN GENERAL.—

10 (1) IN GENERAL.—Section 205(r) of the Social
 11 Security Act (42 U.S.C. 405(r)) is amended—

12 (A) in paragraph (2)—

13 (i) by striking “may” and inserting
 14 “shall”; and

15 (ii) by inserting “, and to ensure the
 16 completeness, timeliness, and accuracy of,”
 17 after “transmitting”;

18 (B) by striking paragraphs (3), (4), and
 19 (5) and inserting the following:

20 “(3)(A) The Commissioner of Social Security shall,
 21 to the extent feasible, provide for the use of information
 22 regarding all deceased individuals furnished to or main-
 23 tained by the Commissioner under this subsection in ac-
 24 cordance with subparagraph (B), subject to such safe-
 25 guards as the Commissioner of Social Security determines

1 are necessary or appropriate to protect the information
2 from unauthorized use or disclosure, by any Federal or
3 State agency providing federally funded benefits or admin-
4 istering a Federal program for such benefits, including the
5 agency operating the Do Not Pay working system for en-
6 suring proper payment of those benefits, through a cooper-
7 ative arrangement with the agency (that includes the
8 agency's Inspector General) or with an agency's Inspector
9 General, if—

10 “(i) under such arrangement the agency (in-
11 cluding, if applicable, the agency's Inspector Gen-
12 eral) provides reimbursement to the Commissioner of
13 Social Security for the reasonable cost of carrying
14 out such arrangement, including the reasonable
15 costs associated with the collection and maintenance
16 of information regarding deceased individuals fur-
17 nished to the Commissioner pursuant to paragraph
18 (1), and

19 “(ii) such arrangement does not conflict with
20 the duties of the Commissioner of Social Security
21 under paragraph (1).

22 “(B) The Commissioner of Social Security shall, to
23 the extent feasible, provide for the use of information re-
24 garding all deceased individuals furnished to or main-
25 tained by the Commissioner under this subsection,

1 through a cooperative arrangement in order for a Federal
2 agency to carry out any of the following purposes, if the
3 requirements of clauses (i) and (ii) of subparagraph (A)
4 are met:

5 “(i) Operating the Do Not Pay working system
6 established by section 5 of the Improper Payments
7 Elimination and Recovery Improvement Act of 2012.
8 Under such arrangement, the agency operating the
9 working system may compare death information dis-
10 closed by the Commissioner with personally identifi-
11 able information reviewed through the working sys-
12 tem, and may redisclose such comparison of infor-
13 mation, as appropriate, to any Federal or State
14 agency authorized to use the working system.

15 “(ii) To ensure proper payments under a Fed-
16 eral program or the proper payment of federally
17 funded benefits, including for purposes of payment
18 certification, payment disbursement, and the preven-
19 tion, identification, or recoupment of improper pay-
20 ments.

21 “(iii) To carry out tax administration or debt
22 collection duties of the agency.

23 “(iv) For use by any policing agency of the
24 Federal Government with the principle function of

1 prevention, detection, or investigation of crime or
2 the apprehension of alleged offenders.

3 “(4) The Commissioner of Social Security may enter
4 into similar arrangements with States to provide informa-
5 tion regarding all deceased individuals furnished to or
6 maintained by the Commissioner under this subsection,
7 for any of the purposes specified in paragraph (3)(B), for
8 use by States in programs wholly funded by the States,
9 or for use in the administration of a benefit pension plan
10 or retirement system for employees of a State or a political
11 subdivision thereof, if the requirements of clauses (i) and
12 (ii) of paragraph (3)(A) are met. For purposes of this
13 paragraph, the terms ‘retirement system’ and ‘political
14 subdivision’ have the meanings given such terms in section
15 218(b).

16 “(5) The Commissioner of Social Security may use
17 or provide for the use of information regarding all de-
18 ceased individuals furnished to or maintained by the Com-
19 missioner under this subsection, subject to such safe-
20 guards as the Commissioner of Social Security determines
21 are necessary or appropriate to protect the information
22 from unauthorized use or disclosure, for statistical pur-
23 poses and research activities by Federal and State agen-
24 cies if the requirements of clauses (i) and (ii) of paragraph
25 (3)(A) are met. For purposes of this paragraph, the term

1 ‘statistical purposes’ has the meaning given that term in
 2 section 502 of the Confidential Information Protection
 3 and Statistical Efficiency Act of 2002.’; and

4 (C) in paragraph (8)(A)(i), by striking
 5 “subparagraphs (A) and (B) of paragraph (3)”
 6 and inserting “clauses (i) and (ii) of paragraph
 7 (3)(A)”.

8 (2) REPEAL.—Effective on the date that is 5
 9 years after the date of enactment of this Act, the
 10 amendments made by this subsection to paragraphs
 11 (3), (4), (5), and (8) of section 205(r) of the Social
 12 Security Act (42 U.S.C. 405(r)) are repealed, and
 13 the provisions of section 205(r) of the Social Secu-
 14 rity Act (42 U.S.C. 605(r)) so amended are restored
 15 and revived as if such amendments had not been en-
 16 acted.

17 (b) AMENDMENT TO INTERNAL REVENUE CODE.—
 18 Section 6103(d)(4) of the Internal Revenue Code of 1986
 19 is amended—

20 (1) in subparagraphs (A) and (B), by striking
 21 “Secretary of Health and Human Services” each
 22 place it appears and inserting “Commissioner of So-
 23 cial Security”; and

24 (2) in subparagraph (B)(ii), by striking “such
 25 Secretary” and all that follows through “deceased

1 individuals.” and inserting “such Commissioner pur-
 2 suant to such contract, except that such contract
 3 may provide that such information is only to be used
 4 by the Social Security Administration (or any other
 5 Federal agency) for purposes authorized in the So-
 6 cial Security Act or this title.”.

7 (c) REPORT TO CONGRESS ON ALTERNATIVE
 8 SOURCES OF DEATH DATA.—

9 (1) REQUIREMENTS.—The Director of the Of-
 10 fice of Management and Budget shall conduct a re-
 11 view of potential alternative sources of death data
 12 maintained by the non-Federal sources, including
 13 sources maintained by State agencies or associations
 14 of State agencies, for use by Federal agencies and
 15 programs. The review shall include analyses of—

16 (A) the accuracy and completeness of such
 17 data;

18 (B) interoperability of such data;

19 (C) the extent to which there is efficient
 20 accessibility of such data by Federal agencies;

21 (D) the cost to Federal agencies of access-
 22 ing and maintaining such data;

23 (E) the security of such data;

24 (F) the reliability of such data; and

1 (G) a comparison of the potential alternate
 2 sources of death data to the death data distrib-
 3 uted by the Commissioner of Social Security.

4 (2) REPORT.—Not later than 4 years after the
 5 date of enactment of this Act, the Director of the
 6 Office of Management and Budget shall submit a re-
 7 port to Congress on the results of the review and
 8 analyses required under paragraph (1). The report
 9 shall include a recommendation by the Director of
 10 the Office of Management and Budget regarding
 11 whether to extend the agency access to death data
 12 distributed by the Commissioner of Social Security
 13 provided under the amendments made by subsection
 14 (a)(1) beyond the date on which such amendments
 15 are to be repealed under subsection (a)(2).

16 **SEC. 3. IMPROVING THE USE OF DATA BY GOVERNMENT**
 17 **AGENCIES TO CURB IMPROPER PAYMENTS.**

18 The Improper Payments Elimination and Recovery
 19 Improvement Act of 2012 (31 U.S.C. 3321 note) is
 20 amended by adding at the end the following:

21 **“SEC. 7. IMPROVING THE USE OF DEATH DATA BY GOVERN-**
 22 **MENT AGENCIES.**

23 “(a) GUIDANCE BY THE OFFICE OF MANAGEMENT
 24 AND BUDGET.—

1 “(1) GUIDANCE TO AGENCIES.—Not later than
2 6 months after the date of enactment of this section,
3 and in consultation with the Council of Inspectors
4 General on Integrity and Efficiency and the heads of
5 other relevant Federal, State, and local agencies,
6 and Indian tribes and tribal organizations, the Di-
7 rector of the Office of Management and Budget
8 shall issue guidance for each agency or component
9 of an agency that operates or maintains a database
10 of information relating to beneficiaries, annuity re-
11 cipients, or any purpose described in section
12 205(r)(3)(B) of the Social Security Act (42 U.S.C.
13 405(r)(3)(B)) for which improved data matching
14 with databases relating to the death of an individual
15 (in this section referred to as ‘death databases’)
16 would be relevant and necessary regarding imple-
17 mentation of this section to provide such agencies or
18 components access to the death databases no later
19 than 6 months after such date of enactment.

20 “(2) PLAN TO ASSIST STATES AND LOCAL
21 AGENCIES AND INDIAN TRIBES AND TRIBAL ORGANI-
22 ZATIONS.—Not later than 1 year after the date of
23 enactment of this section, the Director of the Office
24 of Management and Budget shall develop a plan to
25 assist States and local agencies, and Indian tribes

1 and tribal organizations, in providing electronically
2 to the Federal Government records relating to the
3 death of individuals, which may include rec-
4 ommendations to Congress for any statutory
5 changes or financial assistance to States and local
6 agencies and Indian tribes and tribal organizations
7 that are necessary to ensure States and local agen-
8 cies and Indian tribes and tribal organizations can
9 provide such records electronically. The plan may in-
10 clude recommendations for the authorization of ap-
11 propriations or other funding to carry out the plan.

12 “(b) REPORTS.—

13 “(1) REPORT TO CONGRESS ON IMPROVING
14 DATA MATCHING REGARDING PAYMENTS TO DE-
15 CEASED INDIVIDUALS.—Not later than 270 days
16 after the date of enactment of this section, the Di-
17 rector of the Office of Management and Budget, in
18 consultation with the heads of other relevant Federal
19 agencies, and in consultation with States and local
20 agencies, Indian tribes and tribal organizations, shall
21 submit to Congress a plan to improve how States
22 and local agencies and Indian tribes and tribal orga-
23 nizations that provide benefits under a federally
24 funded program will improve data matching with the

1 Federal Government with respect to the death of in-
 2 dividuals who are recipients of such benefits.

3 “(2) ANNUAL REPORT.—Not later than 1 year
 4 after the date of enactment of this section, and for
 5 each of the 4 succeeding years, the Director of the
 6 Office of Management and Budget shall submit to
 7 Congress a report regarding the implementation of
 8 this section. The first report submitted under this
 9 paragraph shall include the recommendations of the
 10 Director required under subsection (a)(2).

11 “(c) DEFINITIONS.—In this section, the terms ‘In-
 12 dian tribe’ and ‘tribal organization’ have the meanings
 13 given those terms in section 4 of the Indian Self-Deter-
 14 mination and Education Assistance Act (25 U.S.C.
 15 450b).”.

16 **SEC. 4. PLAN FOR ENSURING THE ACCURACY AND COM-**
 17 **PLETENESS OF DEATH DATA MAINTAINED**
 18 **AND DISTRIBUTED BY THE SOCIAL SECURITY**
 19 **ADMINISTRATION.**

20 (a) IN GENERAL.—Not later than ~~180 days~~ *1 year*
 21 after the date of enactment of this Act, the Commissioner
 22 of Social Security shall submit to Congress a plan, which
 23 shall include the elements described in subsection (b), to
 24 ~~ensure~~ *improve* the accuracy and completeness of the
 25 death data (including data regarding individuals who are

1 not eligible for or receiving benefits under titles II or XVI
 2 of the Social Security Act) maintained and distributed by
 3 the Social Security Administration.

4 (b) CONTENT OF PLAN.—The plan required under
 5 subsection (a) shall include the following elements:

6 (1) A procedure for identifying ~~extremely elder-~~
 7 ~~ly~~ individuals who are still alive *and are older than*
 8 *the oldest known living person* according to the
 9 records of the Social Security Administration ~~and~~
 10 ~~verifying the accuracy of this information.~~

11 (2) Improved policies and procedures for identi-
 12 fying and correcting erroneous records, including
 13 policies and procedures for—

14 (A) identifying individuals listed as dead
 15 who are actually alive;

16 (B) indentifying individuals listed as alive
 17 who are actually dead; and

18 (C) allowing individuals or survivors of de-
 19 ceased individuals to notify the Social Security
 20 Administration of potential errors.

21 (3) Improved policies and procedures to identify
 22 and correct errors in the records of the Numerical
 23 Identification System, and death data.

24 (4) A process for employing statistical analysis
 25 of the death data maintained and distributed by the

1 Social Security Administration to determine an esti-
 2 mate of the number of erroneous records.

3 (5) Recommendations for legislation.

4 ~~(c) IMPLEMENTATION OF PLAN.—Not later than 2~~
 5 ~~years after the date of enactment of this Act, the Commis-~~
 6 ~~sioner of Social Security shall implement the plan required~~
 7 ~~under subsection (a).~~

8 **SEC. 5. REPORT ON INFORMATION SECURITY.**

9 *Not later than 90 days after the date of the enactment*
 10 *of this Act, the Commissioner of Social Security shall sub-*
 11 *mit a report to the Committees on Ways and Means, Over-*
 12 *sight and Government Reform, and Homeland Security of*
 13 *the House of Representatives, and the Committees on Fi-*
 14 *nance and Homeland Security and Governmental Affairs*
 15 *of the Senate that—*

16 *(1) identifies all information systems of the So-*
 17 *cial Security Administration containing sensitive in-*
 18 *formation; and*

19 *(2) describes the measures the Commissioner is*
 20 *taking to secure and protect such information sys-*
 21 *tems.*

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